

SERVICE DATE – JUNE 19, 2012

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

Docket No. AB 303 (Sub-No. 39X)

**Wisconsin Central Ltd. – Abandonment Exemption –
in Manitowoc County, Wis.**

BACKGROUND

In this proceeding, Wisconsin Central Ltd. (WCL) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Manitowoc County, Wisconsin. The rail line proposed for abandonment extends approximately 6.8 miles from milepost 69.0 to milepost 62.2 (the Line). A map depicting the Line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

WCL states that the Line was constructed in 1873-74 by the Milwaukee, Lake Shore and Western Railroad Company, a predecessor of the Chicago & North Western Railway Company. WCL acquired the Line through various acquisitions and mergers and provided service on the Line from 2002-09. The right-of-way is approximately 100 feet wide and traverses largely rural areas adjacent to Interstate 43 in Manitowoc County.

ENVIRONMENTAL REVIEW

WCL submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. WCL served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

¹ The Environmental and Historic Reports are available for viewing on the Board's website at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB 303 (Sub-No. 39X).

Diversion of Traffic

According to WCL, no local traffic has moved over the Line for at least 2 years, and there is no overhead traffic to be rerouted. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

The State of Wisconsin, Department of Natural Resources (WDNR) submitted comments on the potential impacts to various resources from the proposed abandonment. These resource areas include water quality, wetlands, 100 year floodplains, endangered or threatened species, wildlife sanctuaries or refuges, national/state parks or forests, coastal zone management, soil and natural resource conservation, regional/local land use plans, Section 402/404 permits, and waste and demolition disposal. WDNR stated that the State of Wisconsin has an interest in converting the right-of-way into a trail through WDNR's rail to trails program. OEA notes that the Board will generally not require mitigation for existing conditions along the rail line or future maintenance of the right-of-way. It is well settled that in conducting environmental reviews of abandonment cases, the Board's role is limited to the anticipated impacts of the abandonment proposal before the agency, e.g., the likely diversion of traffic to other rail lines or transportation modes and the likely disruptive consequences of removing the track and related structures. Iowa Southern R. Co. – Exemption – Abandonment, 5 I.C.C.2d 496, 501 (1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990). Accordingly, we recommend that a condition be imposed upon any decision granting abandonment authority requiring WCL to consult with WDNR regarding its concerns and comply with its reasonable requirements related to salvage.

The National Geodetic Survey (NGS) identified seven geodetic station markers in the area of the proposed abandonment. Accordingly, we recommend that a condition be imposed upon any decision granting abandonment authority requiring WCL to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts. In addition to the parties on the Board's service list for this proceeding, OEA is providing a copy of this EA to WDNR for its review and comment.

HISTORIC REVIEW

WCL served the Historic Report on the Wisconsin Historical Society (State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). Based on available information, the SHPO has submitted comments stating that no known historic properties listed in or eligible for inclusion in the National Register of Historic Places (National Register) would be affected by the proposed abandonment.

Accordingly, pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's Historic Report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database at <http://grants.cr.nps.gov/nacd/index.cfm> to identify federally-recognized tribes which may have ancestral connections to the project area. The database indicated that the Citizen Potawatomi Nation, Oklahoma, the Forest County Potawatomi Community, Wisconsin, the Hannahville Indian Community, Michigan, and the Prairie Band of Potawatomi Nation, Kansas, may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way for the proposed abandonment. Accordingly, OEA is sending a copy of this EA to these tribes for their review and comment.

CONDITIONS

We recommend that the following conditions be imposed on any decision granting abandonment authority:

1. Prior to commencement of any salvage activities, Wisconsin Central Ltd. shall consult with the Wisconsin Department of Natural Resources and comply with its reasonable requirements related to salvage.
2. Wisconsin Central Ltd. shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this Environmental Assessment, send an **original and 2 copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Danielle Gosselin, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB 303 (Sub-No. 39X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Danielle Gosselin, the environmental contact for this case, by phone at (202) 245-0300, fax at (202) 245-0454, or e-mail at danielle.gosselin@stb.dot.gov.

Date made available to the public: June 19, 2012.

Comment due date: July 6, 2012.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment